

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

PROVIDENT NATIONAL BANK AND
MILDRED B. KIMBALL, EXECUTORS
OF THE ESTATE OF WALTER D. KIMBALL,
DECEASED

Claim No. CU-2248

Decision No. CU 1382

**Under the International Claims Settlement
Act of 1949, as amended**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,254.50, was presented by PROVIDENT NATIONAL BANK AND MILDRED B. KIMBALL, EXECUTORS OF THE ESTATE OF WALTER D. KIMBALL, DECEASED, and is based on their interest in bonds issued by the Cuba Railroad Company. Decedent, Walter D. Kimball had been a national of the United States since his birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interests including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On the basis of evidence of record, the Commission finds that Walter D. Kimball, deceased, was and since prior to October 13, 1960 had been the owner of 5 bonds in the original face amount of \$1,000 each, issued by the Cuba Railroad Company and known as "Improvement and Equipment Gold Bond, 4%, due June 30, 1970" issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The bonds in question are Nos. M 2666 through M 2670, inclusive.

The Commission further finds that Walter D. Kimball died, testate, on January 21, 1964, and that by the terms of his will, two trusts were established composed of the residue of his estate. The beneficiaries under these trusts were decedent's wife, Mildred B. Kimball, and his two sons, William B. Kimball and Peter D. Kimball, all of whom are citizens of the United States by birth.

The Cuba Railroad Company, organized in the State of New Jersey, was a wholly-owned subsidiary of Consolidated Railroads of Cuba, a Cuban corporation. By Indenture dated July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, the Cuba Railroad Company issued Dollar bonds secured by mortgage upon the realty and equipment of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were reissued as 4% bonds, due June 30, 1970. As of 1952, the outstanding principal balance on each \$1,000.00 bond was \$635.00, with interest at 4% per annum to be paid on the principal balance.

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The record discloses that the last payment of interest on the bonds was made on November 1, 1958. The properties of the Cuba Railroad Company were listed as nationalized by Cuban Law 890, effective October 13, 1960, the date of its publication in the Cuban Official Gazette. Claimant's bond, therefore, represented a debt which was a charge upon nationalized property as defined in Section 502(3) of the Act.

The Commission concludes that, as a result of the nationalization of the properties of the Cuba Railroad Company, decedent, Walter D. Kimball, suffered a loss in connection with these bonds within the meaning of Title V of the Act. (See the Claim of Edgar F. Corliss, FCSC Claim No. CU-0785.)

The Commission finds that the total amount of the unpaid indebtedness on these bonds was \$3,423.40 including the principal amount of \$3,175.00 and the interest due on the bonds from November 1, 1958 to October 13, 1960, the date of loss in the amount of \$248.40.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

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CERTIFICATION OF LOSS

The Commission certifies that the PROVIDENT NATIONAL BANK AND MILDRED B. KIMBALL, EXECUTORS OF THE ESTATE OF WALTER D. KIMBALL, DECEASED, succeeded to and suffered a loss, as a result of action of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Thousand Four Hundred Twenty-Three Dollars and Forty Cents (\$3,423.40) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

FEB 28 1968

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 4-4-68

Edward D. Re
Edward D. Re, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Francis H. Hartman
Clerk of the Commission

NOTICE TO TREASURY DEPARTMENT: The bonds subject of this certification of loss may have been returned and no payment should be made until they are resubmitted.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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